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foreign commerce. *Held*, that the Wilson Act applies to foreign as well as to interstate commerce. *De Bary & Co. v. Louisiana*, 227 U. S. 108, 33 Sup. Ct. 239. See NOTES, p. 533.

MANDAMUS — PARTIES — RIGHT OF DE FACTO OFFICER TO COMPEL PAYMENT OF SALARY. — In a mandamus proceeding to compel payment of a public officer's salary, the defendant alleged that the relator was not properly commissioned in office. *Held*, that such a defense cannot be set up. *State ex rel. Frank v. Goben*, 152 S. W. 93 (Mo.).

Because of the necessity of confidence in public acts, and to protect the rights of parties relying on official acts, a *de facto* title to a public office may not be collaterally attacked. *State v. Carroll*, 38 Conn. 449; *People ex rel. Hoffman v. Hecht*, 105 Cal. 621, 38 Pac. 941. But this doctrine is in no wise remedial to the officer himself. See 20 HARV. L. REV. 458. Only a public officer lawfully appointed or elected, and installed, has a right to compensation for his services. *Wittmer v. City of New York*, 50 N. Y. App. Div. 482, 64 N. Y. Supp. 170; *City of Philadelphia v. Given*, 60 Pa. St. 136. But cf. *Cousins v. City of Manchester*, 67 N. H. 229, 38 Atl. 724. Thus in an ordinary action of debt for his salary, the plaintiff's title to office may be questioned. *City of Philadelphia v. Given*, *supra*; *Sheridan v. City of St. Louis*, 183 Mo. 25, 81 S. W. 1082. Also in mandamus proceeding, contrary to the principal case, lack of *de jure* title may be set up. *State ex rel. Dudley v. Daggart*, 28 Wash. 1, 68 Pac. 340; *Williams v. Clayton*, 6 Utah 86, 21 Pac. 398. When, however, a third party claiming to be a *de jure* officer brings mandamus for his salary, the court by allowing a defense refuses to question the title of the *de facto* officer, for his title can then be justly adjudicated only in a *quo warranto* proceeding to which he is a party. *State ex rel. Vail v. Draper*, 48 Mo. 213; *State ex rel. Simmons v. John*, 81 Mo. 13. The principal case confuses a suit brought by the *de facto* officer himself with such cases, and by refusing without reason to go into the question of the plaintiff's title to the office, allows a recovery.

MINES AND MINERALS — ADVERSE POSSESSION WHERE SEVERANCE OF SURFACE. — The defendant was owner of the surface of the soil through a deed reserving the minerals to the grantor. The plaintiff was grantee of the gypsum. The defendant mined the gypsum from time to time for more than the statutory period of limitations. *Held*, that an injunction will be granted to restrain further removal. *White v. Miller*, 78 N. Y. Misc. 428 (Sup. Ct.).

The right to the surface of land is capable of severance from the right to the underlying mineral deposits which thereby form a distinct corporeal hereditament. *Hartwell v. Camman*, 10 N. J. Eq. 128; *Lillibridge v. Lackawanna Coal Co.*, 143 Pa. St. 293, 22 Atl. 1035. In case of such severance ordinary possession of the surface for the statutory period does not operate as adverse possession of the minerals. *French v. Lansing*, 73 N. Y. Misc. 80, 132 N. Y. Supp. 523; *Armstrong v. Caldwell*, 53 Pa. St. 284. Nor are occasional acts of mining and carrying off the minerals sufficient. *Hooper v. Bankhead*, 171 Ala. 626, 54 So. 549; *French v. Lansing*, *supra*. The possession, to be sufficient, must include a continuous operation of the mines in accordance with the nature of the business. *Gordon v. Park*, 219 Mo. 600, 117 S. W. 1163. See *Armstrong v. Caldwell*, *supra*, 288. Cf. *House v. Palmer*, 9 Ga. 497. The acts must likewise be open and notorious. *Dartmouth v. Spittle*, 19 Wkly. Rep. 444. See *Gordon v. Park*, *supra*. In general the extent of acquisition by adverse possession without color of title depends on the actual possession of the adverse claimant, which in the case of mines is confined practically to the part being worked. But where the claim is under color of title it is to the limits of that title, even though only part of the land is actually occupied. *Jackson v. Olitz*, 8 Wend. (N. Y.) 440. This distinction recognized in general in regard to land is not